

## **The Honorable Martin Glenn**

United States Bankruptcy Court, Southern District of New York  
One Bowling Green New York, NY 10004-1408

### **Case No. 22-10964 Celsius Lending LLC**

#### **Transparency and the need for a Trustee:**

Please appoint a Trustee to replace Mr. Mashinsky and Celsius insiders. The level of mismanagement is far and above what anyone would think is normal. Billions are missing and they can magically find almost \$70M when they sense pushback on a DIP loan. No DIP loan should be approved until a full forensic audit of Celsius is completed.

When did the missing assets go missing? It appears from preliminary analysis that Celsius was seriously short of customer assets considerably before the “extreme market volatility” of 2022.

Celsius failed to do required Anti-Money Laundering (AML) background checks on employees in a financial services company where it should be standard. It is clearly mismanagement at an extraordinary level to instruct your HR department to onboard key employees and executives without AML background checks.

**“...executives specifically told the chief human resources officer not to run a background check on Yaron Shalem, the incoming chief financial officer.”**<https://www.cnbc.com/2022/07/19/former-employees-say-issues-plagued-crypto-company-celsius-years-before-bankruptcy.html>

Did any assets disappear during the tenure of Yaron Shalem, CFO of crypto lending at Celsius before he was arrested in Nov. 2021? <https://www.timesofisrael.com/celsius-suspends-official-under-probe-2nd-staffer-founded-firm-with-money-launderer/> **Times of Israel: “Celsius suspends official under probe; 2nd staffer founded firm with money launderer.**

It is very likely the assets “lost” were not just carelessly or criminally lost, but also transferred from the depositors to unknown entities and may be recoverable. The disappearing assets and asset shortage may well have started considerably earlier than the initial Mashinsky statement indicated.

We need to know the exact moment that Earn interest payments or transfers out of Celsius were being made with new customer assets.

Customer assets were transferred and/or sold from customer accounts at several Celsius companies to create a Celsius mining company that Mr. Mashinsky and Celsius insiders knew they would benefit from selling over any others at a later date - a mining company they have no expertise in running and only want to take public and profit from.

Were customer assets transferred and/or sold to benefit other Celsius and Mashinsky affiliated companies that are not named in the bankruptcy?

This warrants a thorough investigation into Mr. Mashinsky and Celsius insiders and new leadership from a Trustee appointed to see this out. Please order a forensic audit of digital assets held and "lost"? Clearly if they can "find" almost \$70M we cannot trust them. If there is no forensic audit by a trusted, outside, on-chain audit firm that is made public then know that a large number of us will never believe what they tell us.

Who exactly will benefit the most if this restructuring leads to Mr. Mashinsky and Celsius insiders owning a mining company paid for with customer/creditor assets and zero forensic audits are done? How can creditors even explore this when data is withheld? The mining company is now a very important part of any recovery plan but creditors who financed it must be the beneficiaries of any realistic plan and need data to evaluate any plan by having all relevant data on where, exactly, the funds to create it came from.

Did Celsius artificially inflate the price of its own digital coin CEL? Many credible sources report that Celsius was buying CEL while insiders were selling and engaged in activities that amounted to fraudulent price manipulation. It is unclear that CEL has any value at all much less the value they are declaring.

CEL is one of the assets held in this bankruptcy. Was there insider trading of the CEL token that impacts its value today? Did insiders sell while directing Celsius to buy CEL tokens on the open market? The current market price on the open market is manipulated by extreme illiquidity issues exploited by an organized group of CEL "short squeezers" so does CEL even have a real value today? Is CEL a security representing the company? Can you be sure that no creditor will be stuck with a CEL token that has no real value going forward?

Do they have insurance on assets held? Did they ever have the insurance they claimed to have? Did insurance giant AON PLC insure bankrupt Celsius network for \$750M? June 5, 2022 and July 8, 2022, Celsius Network added a banner to its website announcing the existence of insurance and implying that our assets were insured but leaving out the part about the assets being gone.

How many U.S. States and agencies have launched fraud investigations? How many international? The answer is MANY and more coming. We need a Trustee appointed immediately.

**Do not wait for one of them to arrest a principal in this case to appoint a Trustee.**

**No plan or distribution should be considered until we all know where assets are, where they went , how much is actually lost, how much is “misplaced,” how much is recoverable and how much, if any, was transferred to insiders or their associates and other companies.**

**Rushing past this step could cover up fraud and short change creditors.**

It would also help if Celsius was not allowed to play keep away or gatekeeper to data like the names of creditors, actual number of coins assigned to each account type including collateral, who owes Celsius, who are the accredited/qualified that Celsius has on file, what is the loan collateral held. Did any “lost” assets end up in the wallets of other related companies in other countries, with former employees or families of insiders or former business associates? Do they have stocks and bonds and other assets?

Some preliminary on-chain investigation by analysts has found discrepancies in what Celsius has stated they have. Creditors do not know who to believe and do not trust Celsius to be honest. Everyone needs to know exactly where the “lost” digital assets went and what assets are still under the control of Celsius, Mr. Mashinsky and Celsius insiders.

It was not extreme volatility or a “bank run” that led to this bankruptcy. It was gross mismanagement, possible fraud and a failure of regulators.

Basic question: Were assets stolen and can we get them back? A forensic audit and an appointed Trustee could find out.

Like most people I do think that phone numbers, emails and addresses should be sealed but that is all.

### **Custody Accounts:**

The **Custody account was a “home” clearing account for transaction activity in Celsius for almost all U.S. customers.** None of the international Earn customers even had Custody as an option.

Most U.S. customers were forced to use the Custody account for all transactions after it was created. Most U.S. retail customers who deposited assets, paid on loans, took out loans, added collateral to loans, swapped assets, transferred into or out of Earn etc had to go through the Custody account to do it.

Custody was created because a couple of States, not all and no Federal, wanted them to stop putting non-accredited people into the Earn product BUT the Custody account did NOT operate like that. It was the central clearing account. Custody and Earn should be treated the same in this bankruptcy unless there is a way to distinguish non-accredited from accredited and restore the intent of creating the account in the first place.

The bankruptcy filing halted the activity so Custody account assets represent a mere snapshot in time of assets in motion. Why should the few that still, by happy accident, happen to hold assets in a clearing account type that was only 89 days old at the time of bankruptcy have more rights to a distribution of assets than any other creditor?

Celsius is telegraphing their intent to use preference/clawbacks with Custody just like everyone else so what really makes Custody more worthy of a distribution over other creditors? If they are ready to release up to the limit why not everyone up to the limit?

The loan collateral is probably more accurately described as clearly owned by the account holder than the hastily put together and artificial distinction of Custody accounts. Collateral has been collateral for a very long time. (FYI: July 4th 2022: Truth in Lending sent to retail loan holders for retail loans taken out days, weeks, months, and years before receiving it.)

Had Custody been the account that all non-accredited customers were placed in then it might make sense to distribute to them first but that did not happen.

Celsius lawyers are arguing to distinguish the Custody account type because dividing out the smallest piece makes them look accommodating. This is slight of hand. They know that the preferences they are going to seek will attempt to reach into the pockets of Custody and Earn alike and have said so. It is a low cost PR move at best and at worst is an attempt to divide and distract the creditors and waste precious resources and time.

### **Non-Accredited Customers:**

The day of the pause of asset transfers Celsius said: "Earn accounts have not been registered under the Securities Act and may not be offered or sold in the United States, to U.S. persons, for the account or benefit of a U.S. person or in any jurisdiction in which such offer would be prohibited." — Simultaneous with trapping thousands of non-accredited in the Earn account security product.

Mr. Mashinsky and Celsius insiders very likely knew of the company approaching insolvency many months ahead and were still deceiving and luring new retail users, mostly non-accredited (and international equivalents), into Celsius up until the very last day before the withdrawal pause.

In the weeks before the “pause” Mr. Mashinsky was appearing frequently on many online forums attesting and appealing to non-accredited claiming that all assets were safe and encouraging people to stay in their accounts and deposit new assets into Celsius. If Celsius was short 2 billion in assets did they use new deposits to pay interest and transfers out?

Do non-accredited customers have any “right to rescission” or a “constructive trust” or some kind of relief since Celsius actively deceived non-accredited depositors into an unregistered security and did not ever disclose the true risks involved? This comes up in various forums of creditors.

How does the “grandfathering” and trapping of most non-accredited into Earn account “securities” make sense? Did the rest of the States suddenly sign off or was the creation of a Custody account followed by the freeze followed by bankruptcy a way buy time and to beat them to the punch? Is this suddenly a non-issue once Celsius is just a mining company? Will they get away with this behavior?

Does leaving non-accredited trapped in the Earn product violate SEC rules? State rules? Are regulators just going to sit by and let the bankruptcy run its course and then step in to un-do some of the results later?

I knew the assets themselves were volatile so the last thing I wanted was more risk. I never knowingly “invested” in an unregulated unregistered security or debt instrument. I did not buy stock in Celsius. I put digital assets into a digital asset bank because my current bank and brokerage do not offer digital asset services.

California’s Department of Financial Protection and Innovation (DFPI) accuses Celsius of offering unregistered securities to investors. “DEPI also stated that Celsius and its CEO Alexander Mashinsky failed to fully disclose important aspects of the business and Earn Rewards.... Celsius and its CEO Alexander Mashinsky failed to fully disclose material aspects of its business and Earn Rewards.... Mashinsky made “materially” misleading statements.”

In addition to California’s DEPI, multiple state agencies are currently investigating the platform. To a Vermont Department of Financial Regulation (DFR), it is also alleged that Celsius was engaged in providing unregistered security to retail investors.

<https://news.coincu.com/116439-celsius-offering-unregistered-securities/>

Please appoint a Trustee to find out where non-accredited, accredited and loan collateral are. Segregate these assets. Ask for a criminal investigation into the intentionally misleading advertising & online social media statements, online appearances and emails to attract as many non-accredited as possible into Celsius.

I for one do not believe the UCC is aggressively fighting for creditors. This case is too complicated for a small group of creditors with no experience to manage part time no matter how hard they try. Celsius Network and the UCC are unresponsive to any

customer inquiries beyond generic “we are on your side” This is bankruptcy” “we are working on it” style replies. The U.S. Trustee has shown more care about the creditors and about how much time and money are being lost than either the UCC or Celsius so far. Creditors like me need more.

At some point before the end of this process I would very much like for you to publicly acknowledge that this bankruptcy was possibly caused by and certainly made more complicated and costly to ordinary non-accredited and other depositors because regulators at the Federal and State levels did not do their job and allowed non-accredited customers to be marketed to, advertised to and sold a hedge fund like product as if it were a safe banking product that has now trapped them in this bankruptcy. International customers too.

If the SEC, CFTC, FTC and OCC, State and other agencies provided clear and rational guidelines and even just enforced the current law in an open and fair way we would not be here. To allow losses to individuals in the billions of dollars by standing by and doing nothing when it is your job should have consequences and should be investigated.

If this harm was intentionally allowed to occur to make the digital assets space look bad or in some interagency turf battles then it is without conscience and those who participated in allowing this should be punished by at least losing their jobs and appointments.

The digital asset space is here to stay and it is not reasonable to fail to provide real, transparent, concrete guidance and oversight. Now you, the sole Judge in a major bankruptcy case, are the only person we, the victims of this fraud, have to appeal to for relief or a voice.

Thank you,

L. Anne Yeilding

The real issues for me are:

- When will a responsible party, a Trustee, be appointed replace Mr. Mashinsky and Celsius insiders?
- Can you request a criminal investigation to run outside of this bankruptcy?
- When will a professional, independent on-chain forensic audit of assets be performed?
- Why weren't the non-accredited vs accredited product offerings segregated?
- Aren't the assets in Custody just Earn assets in transit through the new “home” transfer account?
- Is the collateral in a retail loan actually collateral?
- How and when we will receive at least a partial distribution?

Timeline:

- April 12th email, April 15th Effective: Custody Account Created
- June 1st: Mr. Mashinsky attests to the “fact” that there are no issues and everyone can transfer in and out with no problems and no issues.
- June 5, 2022 and July 8, 2022, Celsius Network adds banner to its website announcing the existence of insurance and implying that our assets were insured but leaving out the part about the assets being gone.
- June 12: Freeze of all customer assets
- June 12 - 20: Many retail loans liquidated because assets in Earn could not be used without transferring to Custody first. Transfers to Custody were frozen and all were reluctant to add more assets or cash with rumors of fraud and bankruptcy everywhere. Many Custody account assets were used to answer margin calls during the freeze. Collateral was liquidated into Celsius and remaining assets lto Earn and Custody accounts that were frozen.
- July 4th: Truth in Lending sent: for retail loans taken out days, weeks, months, and years earlier
- July 5th Celsius still advertising to say they have insurance and assets
- July 13: Bankruptcy

### **Mashinsky 06/01/22 on InvestAnswers**

Attesting to the “fact” that there are no issues and everyone can transfer in and out with no issues.

<https://twitter.com/buyingeverydip/status/1566107042003259392?s=21&t=geJfAQ1ZF1x3axsNyZC-TA>

Mr. Mashinsky asserting that he has cryptographic proof that no “bank run” is possible and Chainlink shows proof of reserves:

<https://twitter.com/buyingeverydip/status/1566107099024834562?s=21&t=geJfAQ1ZF1x3axsNyZC-TA>

“Your funds are safe”

<https://twitter.com/buyingeverydip/status/1566104274374991875?s=21&t=Z6kZEM9S6AKLSNtAe36esQ>

“We are seeing hundreds of millions of dollars coming back”

“We have billions of dollars in liquidity”

<https://twitter.com/buyingeverydip/status/1566104311490351105?s=21&t=Z6kZEM9S6AKLSNtAe36esQ>

This final interview at InvestAnswers, a trusted source for many, was responsible for many of us staying in Celsius and getting stuck. He apparently lied to them too.

### **July 7 Creditors deserve to know if this KeyFi story is true:**

“KeyFi alleges that Celsius created a new Ethereum wallet address “oxb1” and transferred all the assets which Jason Stone (KeyFi CEO) was going to deploy. The lawsuit alleges that after Jason left KeyFi, Celsius still had access and control of the oxb1 wallet. Furthermore, Alex used the wallet for his personal gain. The lawsuit also

alleges that Alex transferred many valuable NFTs from the oxb1 accounts to Krissy Mashinky's wallet."

### **CNBC:**

"Nikki Goodstein, a former senior member of the human resources team, said she was not aware of any background checks at the company when she joined in May 2021. **She told CNBC that executives specifically told the chief human resources officer not to run a background check on Yaron Shalem, the incoming chief financial officer. In November 2021, Shalem was arrested in Israel and charged with money laundering in connection with his previous company. Shalem did not respond to requests for comment.**" <https://www.cnbc.com/2022/07/19/former-employees-say-issues-plagued-crypto-company-celsius-years-before-bankruptcy.html>

### **Times of Israel: "Celsius suspends official under probe; 2nd staffer founded firm with money launderer**

... In May, Cohen-Pavon, the Celsius Network's CRO, registered a new company in Israel with two partners, one of whom is Eliran Oved, a convicted money launderer.... Celsius Network registered as a Money Service Business in the United States on June 18. This means it is required to carry out rigorous anti-money laundering (AML) checks on all users of its platform. The company proclaims on its website that Celsius takes compliance with anti-money laundering rules "very seriously." <https://www.timesofisrael.com/celsius-suspends-official-under-probe-2nd-staffer-founded-firm-with-money-launderer/>

Celsius Chief Financial Officer is Yaron Shalem and the chief revenue officer is Roni Cohen-Pavon (both arrested for money laundering in November 2021)

CoinDesk confirmed: Yaron Shalem, CFO of crypto lending platform CelsiusNetwork, was one of the seven arrested in Tel Aviv this month in connection with his previous job working with Israeli crypto mogul Hogege,

"Nick" on Twitter said: "Celsius ARE insured with assets held in cold storage..EXACTLY like Nexo however when they lend out coins to institutions they are not insured but collateralise what they lend by up to 150%. In other words, if they lend \$10mil in btc they take upto \$15mil in collateral." - **Unfortunately "Nick" represents what almost all Celsius retail customers thought was true because it is what Mr. Mashinsky and others at Celsius kept saying.**

### **Fortune on June 13 2022:**

<https://fortune.com/2022/06/13/celsius-blocks-withdrawals-18-percent-interest-crypto-alex-mashinsky/>

**"For the past week, Celsius CEO Alex Mashinsky has insisted there were no problems with his crypto lending platform, even as many users complained**



about being unable to withdraw funds and others called the business unsustainable.

**Celsius is a crypto alternative to the traditional bank.** Users can deposit cryptocurrency with the platform, which it then loans to others while providing its customers a yield of up to 18%. “

**Mashinsky in a Celsius Network AMA on 4/30/2021 reassuring customers that a bank run on Celsius is impossible because “legally they can never loan more than they have.” “Two orders of magnitude safer than a bank”**

<https://www.youtube.com/watch?v=GYQt-GwsCH0>

**California Dept. of Financial Protection and Innovation (DFPI) accuses Celsius of offering unregistered securities to investors on August 8:**

DFPI also stated that Celsius and its **CEO Alexander Mashinsky failed to fully disclose important aspects of the business and Earn Rewards.** ....Mashinsky made “materially” misleading statements. It also noted Mashinsky continued to tout that the investors of Earn Rewards would be able to timely withdraw their investments and not suffer losses on their investments on multiple occasions leading up to the company’s suspension of customer wallets on June 12th. <https://news.coincu.com/116439-celsius-offering-unregistered-securities/>

**July 5th 2022:**

**Finbold** FINANCE  
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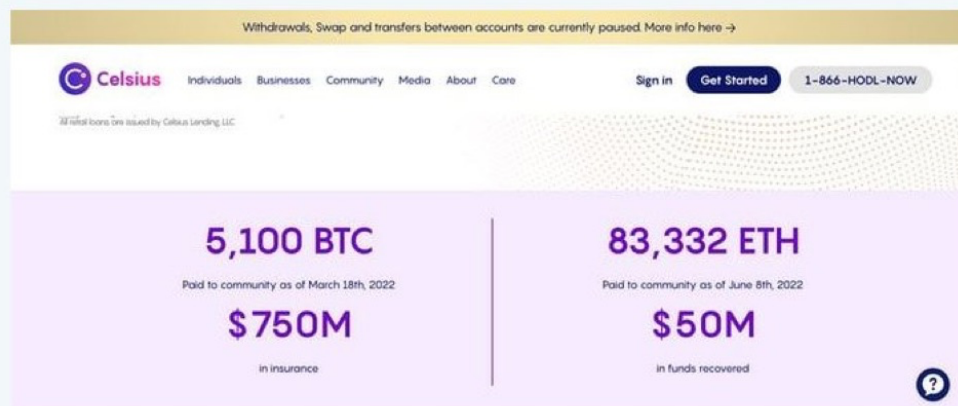
## Questionable insurance claims



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Indeed, using a web archive tool, Finbold was able to determine that, as of July 5, Celsius had previously had information on its website claiming its assets were insured for \$750 million. However, after the firm claimed bankruptcy on July 13, any mentions of insurance mysteriously vanished from the website.



*Celsius website on July 5, 2022. Source: Wayback Machine Web Archive/Celsius*